

# SENATE BILL REPORT

## SB 5274

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As of February 6, 2011

**Title:** An act relating to limited service pregnancy centers.

**Brief Description:** Concerning limited service pregnancy centers.

**Sponsors:** Senators Ranker, Pridemore, Kohl-Welles, Tom, Haugen, Nelson, Keiser, White, Harper, Regala, Murray, Fraser, Chase, Kline, Prentice and Conway.

**Brief History:**

**Committee Activity:** Health & Long-Term Care: 2/02/11.

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### SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

**Staff:** Kathleen Buchli (786-7488)

**Background:** Health care credentialing laws generally regulate entities and persons providing specified health care services. Credentialed entities and providers are subject to various requirements and standards of conduct and to various penalties or disciplinary actions for failing to meet the required standards.

With some exceptions, health care providers are not permitted under state or federal law to disclose patient health care information to any other person without the patient's consent. For purposes of Washington's Uniform Health Care Information Act, health care information is defined as any information that identifies or can readily be associated with the identity of a patient and directly relates to the patient's health care.

**Summary of Bill:** Limited service pregnancy centers (centers) are organizations that advertise, offer, or provide, either free or for a fee, pregnancy tests or ultrasounds and information about adoption or abortion. Centers do not provide prenatal medical care, comprehensive birth control services, and abortion or abortion referrals. Centers do not include licensed health care entities or providers. However, a center remains subject to the statutory requirements notwithstanding the presence of a licensed health care provider in its governance, on its staff, or as a volunteer.

General Disclosures. Centers must disclose to persons seeking services that the center does not provide abortion or comprehensive birth control services or referrals for these services or medical care for pregnant women. This disclosure must be provided:

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- verbally upon first contact, whether by phone, electronic mail, or in person;
- in writing by posting a sign on the main entry door to the organization and inside the building where it is visible to the intake area;
- on the organization's website home page; and
- in advertisements or notices promoting the organization's services.

Disclosures must be provided in the county's primary languages.

Pregnancy Testing Disclosures. If a center uses an over-the-counter pregnancy test, the center must inform the person seeking the test that it is over-the-counter and offer the opportunity to self-administer. Immediately after a pregnancy test is completed, the center must provide a free written statement of the results of the test. The written statement must be provided in English and in the person's first language.

Disclosure of Health Care Information. If a center collects health care information from a recipient of services, the center may not disclose the service recipient's health care information to any other person or entity without the service recipient's written authorization. If a service recipient requests in writing to be allowed to examine or copy the service recipient's recorded health care information, the center must, within 15 working days:

- make the information available and provide a free copy, if requested;
- inform the recipient that the information does not exist or cannot be found; and
- inform the recipient if the center does not maintain the record, and provide the name and address of the entity that does.

Civil Action for Violations. Any person aggrieved by a violation of the center requirements may bring a civil action against the center to enjoin further violations and to recover actual damages and the costs of the suit and reasonable attorneys' fees. Counties and other municipalities are also persons for these purposes.

A court may award treble damages and may also, if damages are awarded, impose a civil fine of up to \$1,000 to be paid to the plaintiff. These remedies are in addition to other remedies that may be available to an aggrieved person.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This bill is about women's health and making sure women get the information they need in a timely manner so they can make decisions about their health. Centers will still be able to operate, and they must be open and honest about their services. This does not change what the centers have to say to their clients. The bill addresses real concerns. Some women who sought care from centers have not been told that the centers are not reproductive health providers. Some women state they have been made to wait for results of pregnancy tests or denied the results, and they were given

information meant to discourage abortion or promote abstinence. As a consequence of the delayed results, they have been delayed or denied access to public assistance. This protects women's health, their privacy, and their access to medical care. The private right of action in the bill ensures enforcement without the use of state funds. This bill does not restrict content of speech and addresses commercial speech. The bill provides minimal requirements and similar disclosures are required by regulatory agencies. The bill does not compel a particular viewpoint. Access to culturally-appropriate services is important to immigrants who do not speak English as a first language.

CON: Clients state that they are satisfied with the services provided by centers, and that they experienced no delay in test results. This is not a consumer problem; clients who get pregnancy tests from physicians could wait a day for results. Clinics provide a service to their communities. The requirement that pregnancy results be delivered in the primary language of the client is burdensome. Centers provide services for low-income women which is important in this economy when state services are being cut and communities must provide a safety net. Centers provide classes, clothing, and diapers to clients. The bill has constitutional problems and would violate the First Amendment through viewpoint discrimination and by compelling speech. This is similar to a recent District Court decision which held a similar ordinance to be unconstitutional. It is up to the center to decide when and how to discuss abortion. Centers provide a variety of services including medical services and do not deceive their clients. Services provided are medically-accurate. Intake forms contain disclaimers. Test results are held back only if they are required by law, such as if the patient doesn't sign a waiver.

**Persons Testifying:** PRO: Senator Ranker, prime sponsor; Sara Ainsworth, Legal Voice; Kelly McDonald, Jennifer Adams, citizens; Dr. Kate McLean, American College of Obstetricians and Gynecologists; Shankar Narayan, American Civil Liberties Union; Liezl Rebugio, National Asian Pacific American Women's Forum.

CON: Kimberly Cole, Lynnwood City Council; Anita Showalter, D.O, Life Choices; Jeff Smith, Annette Miller, Life Services; Wendy Brink, Pregnancy Choices; Avonte Jackson, Tri-Cities Pregnancy Network; Stacy Anderson, citizen.